

Educational; martial art instruction. An organization exempt from tax under section 501(c)(3) of the Code, whose primary activity consists of providing courses of study in one of the martial arts consisting of regularly scheduled participatory exercises and theoretical discussions taught by a faculty of qualified instructors to a regularly enrolled student body, is an educational organization within the meaning of section 170(b)(1)(A)(ii) and, therefore, is not a private foundation.

Advice has been requested whether the organization described below is an educational organization of the type described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1954 and, thus, not a private foundation.

The organization is organized and operated exclusively for charitable and educational purposes and is exempt from federal income tax under section 501(c)(3) of the Code. Its primary activity consists of providing courses of study in one of the martial arts. The organization has a faculty of qualified instructors who present courses of instruction consisting of participatory exercises and theoretical discussions. Regularly scheduled classes are conducted in classrooms leased by the organization. A regularly enrolled student body attends the classes initially for a three-month probation period, and thereafter for an indefinite period, during which students attain increasingly higher levels of proficiency. Student membership is open to the general public, and new students enroll periodically for instruction. The organization's support is from contributions and tuition payments, and its expenditures are for the operation of the school.

There are no restrictions against admissions based on race and the organization has a racially nondiscriminatory policy as to students within the meaning of Rev. Rul. 71-447, 1971-2 C.B. 230.

Section 509(a) of the Code provides that the term 'private foundation' means a domestic or foreign organization described in section 501(c)(3) other than an organization described in section 509(a)(1), (2), (3), or (4). The organizations coming within section 509(a)(1) include those described in section 170(b)(1)(A)(ii).

Section 170(b)(1)(A)(ii) of the Code describes educational organizations that normally maintain a regular faculty and curriculum and normally have a regularly enrolled body of pupils or students in attendance at the place where their educational activities are regularly carried on.

Section 1.170A-9(b)(1) of the Income Tax Regulations provides that an organization is described in section 170(b)(1)(A)(ii) of the Code if its primary function is the presentation of formal instruction and it otherwise fits the description contained in

that section.

The organization's primary function is the presentation of formal instruction; its courses are interrelated and are given in a regular and continuous manner, thereby constituting a regular curriculum; it normally maintains a regular faculty; and it has a regularly enrolled body of students in attendance at a place where its educational activities are regularly carried on.

Accordingly, the organization is an educational organization of the type described in section 170(b)(1)(A)(ii) of the Code, and, thus, not a private foundation because it is described in section 509(a)(1).